

3/16/2015 1:40 pm

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF LABORERS UNION LOCAL
NO. 1298 OF NASSAU AND SUFFOLK
COUNTIES BENEFIT FUNDS,

Plaintiffs,

-against-

SITework MANAGEMENT, INC.,

Defendant.

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APPEARANCES:

Barnes, Iaccarino & Shepherd, LLP

Attorneys for the Plaintiffs

3 Surrey Lane

Hempstead, NY 11550

By: Danielle M. Carney, Esq.

Zachary Eagle, Esq., Of Counsel

NO APPEARANCES:

The Defendant

SPATT, District Judge.

On May 15, 2014, the Plaintiffs Trustees of Laborers Local Union No. 1298 of Nassau and Suffolk Counties Benefit Funds (the “Plaintiffs”) commenced this action under Section 301 of the Labor Management Relations Act of 1947, 29 U.S.C. § 185 and Sections 502(a)(3) and 515 of the Empire Retirement Income Security Act, as amended, 29 U.S.C. §§ 1132(a)(3), 1145 to recover unpaid benefit contributions allegedly owed by the Defendant Sitework Management, Inc. (the “Defendant”) to the Plaintiff pursuant to a collective bargaining agreement. On July 8, 2014, the Clerk of the Court noted the default of the Defendant. On August 14, 2014, the Plaintiff moved for a default judgment.

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EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

On August 15, 2014, the Court referred the matter to United States Magistrate Judge A. Kathleen Tomlinson for a recommendation as to whether the motion for a default judgment should be granted, and if so, (1) whether damages should be awarded, including reasonable attorney's fees and costs, and (2) whether any other relief should be granted.

On February 13, 2015, Judge Tomlinson issued a Report recommending that (1) default judgment be entered against the Defendant; (2) the determination of damages as to delinquent contributions be deferred pending an audit of the Defendant to be completed within thirty (30) days; (3) the Plaintiffs be awarded \$1,490 in attorneys' fees incurred in litigating this action; and (4) the Plaintiffs be awarded \$458 in costs incurred in litigating this action.

More than fourteen days have elapsed since service of the Report and Recommendation on the Defendant, who has failed to file an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the February 13, 2015 Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. See Trustees of Empire State Carpenters Annuity, Apprenticeship, Labor-Mgmt. Cooperation, Pension & Welfare Funds v. C. Downing Enterprises LLC, No. 14-CV-323 (ADS)(AKT), 2015 WL 1042481, at *1 (E.D.N.Y. Mar. 10, 2015)(reviewing Report and Recommendation without objections for clear error).

Accordingly, (1) the February 13, 2015 Report and Recommendation is adopted in its entirety; (2) default judgment is granted against the Defendant; (3) the determination of damages as to delinquent contributions is deferred pending an audit of the Defendant to be completed within thirty (30) days of the date of this order; (3) the Plaintiffs are awarded \$1,490 in attorneys' fees incurred in litigating this action; and (4) the Plaintiffs are awarded \$458 in costs incurred in litigating this action.

SO ORDERED.

Dated: Central Islip, New York
March 16, 2015

Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge